

Bernard Ouziel, Esq.
13 Schoolhouse Lane
Great Neck, NY 11020
P: (516)466-0082

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RAMESH SARVA, individually)
and on behalf of RAMESH SARVA)
CPA, P.C.)
Plaintiffs,) Case No. 15-CV-0219-FLB
)
v.) Stipulation to Amend Complaint
) [Proposed] Amended Complaint
COMERICA BANK)
)
Defendant.)
)
)

WHEREAS, plaintiffs filed and served a complaint in this action on December 10, 2014;

WHEREAS, defendant have filed a motion for summary judgment dated December 29, 2015 in accordance with a pre-motion conference held before Honorable Judge Frederic Block on December 4, 2015.

WHEREAS, the parties to this stipulation seek to clarify that the defendant in this case shall be denominated as “Comerica Bank, in its capacity as Trustee” (hereinafter, “Comerica Bank, Trustee”) and not “Comerica Bank”;

WHEREAS, the attorney of record for defendant “Comerica Bank, Trustee” remains Buchalter Nemer, located at 55 Second Street, Suite 1700, San Francisco, CA.

WHEREAS, subject to this Court's scrutiny, the annexed Amended Complaint (Exhibit A) has been fully reviewed by both parties.

WHEREAS, upon the full execution and filing of this stipulation by plaintiffs, counsel to

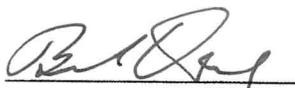
defendant "Comerica Bank, Trustee" shall immediately withdraw its motion for summary judgment by filing with this Court the necessary documents.

WHEREAS, defendant's counsel hereby waives any Statute of Limitation defenses based on the date of the amended complaint.

WHEREAS, defendants shall have twenty (20) days to respond to plaintiffs' amended complaint from the date of service;

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the parties hereto through their respective attorneys of record that plaintiffs may, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, file an amended complaint in the form of the Amended Complaint attached hereto as Exhibit A.

Dated: January 13, 2016



Bernard Ouziel, Esq.
Attorney for Plaintiffs
13 Schoolhouse Lane
Great Neck, NY 11020
(516)466-0082



Richard Darwin, Esq.
Attorney for Defendant
Buchalter Nemer, P.C.
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EXHIBIT A

Bernard Ouziel, Esq.
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Plaintiffs,) Case No. 15-CV-0219-FLB	
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COMERICA BANK, in its capacity)	
as Trustee)	
)	
Defendant.)	
)	
)	

Plaintiffs, by their attorney Bernard Ouziel, Esq., as and for their Amended Complaint against Defendant, allege as follows:

1. At all times herein, Plaintiff Ramesh Sarva was and is an individual residing at 251-24 57th Avenue, Queen, NY.
2. At all times herein, Plaintiff Ramesh Sarva CPA, P.C. was and is a professional corporation engaged in accounting with principal offices at 43-33 48th Street, Lower Level, Sunnyside, NY 11104.
3. Ramesh Sarva is the principal of Ramesh Sarva CPA, P.C.
4. Upon information and belief, defendant Comerica Bank is the Trustee of six (6) Voluntary Employees' Beneficiary Association Trusts ("VEBA Trusts"): a) Southern California Manufacturers' and Agricultural Producers' League Voluntary Employees' Beneficiary Association Master Trust; b) Southern California Entertainment and Communication Guild Voluntary Employees'

Beneficiary Association Master Trust; c) Southern California Medical Profession Association Voluntary Employees' Beneficiary Association Master Trust; d) Southern California Retail Merchants' League Voluntary Employees' Beneficiary Association Master Trust; e) Southern California Building Supply, Wholesalers' and Contractors' League Voluntary Employees' Beneficiary Association Master Trust; and f) Southern California Consultants' and Financial Planners' Profession Voluntary Employees' Beneficiary Association Master Trust. Comerica Bank is headquartered in Dallas, Texas, and does business in New York at offices located at 230 Park Avenue, New York, NY 10169.

FACTS COMMON TO ALL CAUSES OF ACTION

5. Defendant is the trustee of six (6) Voluntary Employer Benefit Association ("VEBA") trusts sponsored by SeaNine Associates, Inc. There are 236 participating members in the six (6) VEBA trusts.

6. In accordance with the provisions of the trusts, defendant was obligated to maintain and manage the bookkeeping, accounting and administration services for each of the 236 trust members.

7. In an effort to assist defendant in discharging its bookkeeping, accounting, and administration services for the 236 members, plaintiff entered into an agreement with defendant, acting by its trust officer Francine Ohta, to perform these services for Comerica Bank, in its capacity as trustee.

8. It was agreed further that plaintiffs were to be paid by defendant \$1,200.00 per annum, per member.

FIRST CAUSE OF ACTION – BREACH OF CONTRACT

9. Plaintiffs repeat and reallege each and every the allegation set forth in paragraphs 1 through 8 as if more fully set forth herein.

10. In accordance with the agreement, plaintiffs performed bookkeeping, accounting, and administration services for the 236 members for years 2007 through 2013.

11. Despite due demand therefor, defendant failed and refused to pay plaintiffs an amount in

excess of \$1,700,000.00 for plaintiffs' services.

SECOND CAUSE OF ACTION – ACCOUNT STATED

12. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 11 as if more fully set forth herein.

13. In or about July 2014, plaintiffs presented to defendants an account in the amount of \$1,700,000.00 for services provided.

14. Defendant failed to raise a timely objection to the amount due.

15. By reason of the above, defendant is obligated to pay plaintiffs an amount in excess of \$1,700,000.00.

THIRD CAUSE OF ACTION – QUANTUM MERUIT

16. Plaintiffs repeat and reallege each and every allegation set forth in paragraphs 1 through 15 as if more fully set forth herein.

17. Plaintiffs performed in good faith services for defendant valued at \$1,700,000.00.

18. Defendant is liable to plaintiffs in quantum meruit in an amount believed to exceed \$1,700,000.00.

WHEREFORE, plaintiffs demand judgment against Comerica Bank, in its capacity as Trustee, in an amount as yet undetermined but which is believed to exceed \$1,700,000.00, plus interest, costs and disbursements, together with any other relief the Court finds to be just and equitable.

Date: January 13, 2016
Great Neck, New York



Bernard Ouziel, Esq.
Attorney for Plaintiffs
13 Schoolhouse Lane
Great Neck, NY 11020